CIVIL WRIT JURISDICTION CASE No.8374 OF 1988

In the matter of an application under Articles 226 and 227 of the Constitution of India.

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1. Shankar Kumar Das
2. Sharban Kumar Das
3. Jitendra Kumar Das

All sons of late Janki Ballav Das, residents of Village – Belwa, P.S. Sadar, District – Purnea.

---------- Petitioners

Versus

1. The State of Bihar
2. The Collector, Purnea
3. The Additional Collector (Ceiling) Purnea
4. The Sub-Divisional Officer, Sadar, Purnea
5. The Anchal Ahikari, Purnea East Block, P S – Sadar, District-Purnea.

---------- Respondents

For the petitioner: Mr. MADHAV ROY.
For the respondents: None.

P R E S E N T

THE HON'BLE MR. JUSTICE AJAY KUMAR TRIPATHI

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A K Tripathi, J. Petitioners are seeking cancellation of red-cards issued to certain unknown persons as also the entire ceiling proceedings relating to Ceiling Case No. 4 of 1975-76.

2. Contention of the learned counsel appearing on behalf of the petitioners is that a ceiling proceeding was initiated against the grandfather of the petitioners namely, Dhotai Lal Das. The said proceeding was numbered as 936/73-74. The proceeding culminated into final order dated 28.2.1983 which declared that the total land holding in favour of Dhotai Lal Das was 21.73 and 1/3 acre. Since the family are entitled to three units , therefore there is no surplus

land and the matter stood dropped but surprisingly another parallel ceiling proceeding seems to have been initiated against the father of the petitioners which was numbered as 4/73-74 at the same time and the respondent authorities hurriedly without following the procedure declared 1.95 acres of land to be surplus in the hands of the father of the petitioners. It is urged that on the face of annexure-2 when the grandfather of the petitioners was declared not to have any ceiling surplus land, looking at the area of land and the three units the family are entitled to which included the father of the petitioners and his two brothers, then even otherwise 1/3rd share of 21 and odd acre of land can not be said to be in excess of ceiling area.

3. Though a counter affidavit has been filed and the fact of initiation of Ceiling Case No. 4 /75-76 has been accepted but it is a sketchy kind of affidavit not explaining the circumstances as to how for the same piece and parcel of land another proceeding at the same time came to be initiated when a decision contained in annexure-2 had already been rendered declaring the land in question not to be ceiling surplus.

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4. Keeping in mind that by virtue of an order of stay passed by this Court the possession of the petitioners was not be disturbed, the Court is of the opinion that the matter requires reconsideration at the local level afresh. The proceedings and the consequential action and order passed in Ceiling Case no. 4/75-76 are hereby set aside. The matter is remanded back to the concerned authority that they shall issue fresh notice to the petitioners and thereafter by following the

procedure enshrined under the Act will do the needful.

5. The writ application stands allowed to the extent indicated above.

(Ajay Kumar Tripathi, J)

Patna High Court:
The 21st November, 2008.
NAFR (R K Pathak)

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